

**ENTERED**

February 24, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

FABIAN MARTINEZ	§	
Movant	§	CIVIL NO. M-13-417
	§	
VS.	§	CRIMINAL NO. M-11-855-1
	§	
UNITED STATES OF AMERICA	§	

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
AND GRANTING DISMISSAL**

The Court has reviewed the magistrate judge's Report and Recommendation regarding Movant Fabian Martinez's action pursuant to 28 U.S.C. § 2255. After having reviewed the said Report and Recommendation, and no objections having been filed by either party, the Court is of the opinion that the conclusions in said Report and Recommendation should be adopted by this Court.

It is, therefore, **ORDERED, ADJUDGED** and **DECreed** that the conclusions in United States Magistrate Judge Peter E. Ormsby's Report and Recommendation entered as Docket Entry No. 9 are hereby adopted by this Court.

FURTHER, the Court, having adopted the magistrate judge's conclusions, is of the opinion that Respondent's Motion to Dismiss should be **GRANTED**, the Motion to Vacate Sentence under 28 U.S.C. § 2255 should be **DISMISSED**, and that a certificate of appealability should be **DENIED**.

The Clerk shall send a copy of this Order to the Movant and counsel for Respondent.

SO ORDERED this 24th day of February, 2016, at McAllen, Texas.

  
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Randy Crane  
United States District Judge